

Environmental
Resources
Management

Princeton Crossroads Corp.
Center
250 Phillips Blvd., Ste. 280
Ewing, NJ 08618
(609) 895-0050
(609) 895-0111 (fax)
<http://www.erm.com>

15 April 2011

Ms. Kimberly Staiger, OSC
U.S. EPA, Region 2
2890 Woodbridge Avenue
Edison, NJ 08837

Email: Staiger.kimberly@epa.gov

Re: **Jewett White Lead Site**
Port Richmond, Staten Island, New York
Comments to EE/CA



Dear Ms. Staiger:

Environmental Resources Management, Inc., on behalf of NL Industries, Inc. submits the attached comments to the documents entitled *Engineering Evaluation/Cost Analysis (EE/CA), Jewett White Lead Site, 2000-2012 Richmond Terrace, Staten Island, New York*, prepared by the United States Environmental Protection Agency (EPA) and dated January 2011 and the Superfund Proposed Response Action March 2011 document prepared by EPA notifying the public of the EE/CA and seeking public comment ("Public Notice").

If you have any questions or comments concerning the attached, please do not hesitate to contact Christopher Gibson at (856)-354-3077

Sincerely,

Thomas T. Griffin
Project Director

cc: C. Gibson, Archer & Greiner
C. Riley, NL Industries

Attachments: Comments Engineering Evaluation/Cost Analysis

229632



Comments
Engineering Evaluation/Cost Analysis
Jewett White Lead Site
2000-2012 Richmond Terrace
Staten Island, New York
(EPA, January 2011)

1. Introduction

Environmental Resources Management, Inc. (ERM), on behalf of NL Industries, Inc. (NL), has prepared the following comments to the documents entitled *Engineering Evaluation/Cost Analysis (EE/CA), Jewett White Lead Site, 2000-2012 Richmond Terrace, Staten Island, New York*, prepared by the United States Environmental Protection Agency (EPA) and dated January 2011 and the Superfund Proposed Response Action March 2011 document prepared by EPA notifying the public of the EE/CA and seeking public comment ("Public Notice").

NL submits these comments in support of its continued efforts to discuss implementation of an effective remedy that is protective of human health and the environment and that can put the Site back into productive use as quickly as possible. Although the EPA has stated that NL refused to participate in discussions regarding the proper response actions at the site, that is not the case. NL has participated in a number of discussions with the EPA and the current property owner regarding the appropriate next steps to be performed at the Site. These discussions specifically have sought to address steps that would result in a timely, effective remedy. NL continues to be willing to discuss the next steps to be taken at the Site with the goal to be an effective remedy that is protective of human health and the environment and that quickly puts the Site back into productive use.

In preparing its comments, ERM considered the information provided in the Public Notice and the EE/CA, including the attachments to the EE/CA. Additionally, ERM referred to the following documents:

- *Presumptive Remedy for Metals-in-Soil Sites* (EPA, Office of Solid Waste and Emergency Response, EPA 540-F-98-054, OSWER-9355.0-72FS, PB99-963301, September 1999);
- *Superfund Lead-Contaminated Residential Sites Handbook* (EPA, Office of Emergency and Remedial Response, OSWER 9285.7-50, August 2003).
- *DER-10 Technical Guidance for Site Investigation and Remediation* (NYSDEC, May 2010).
- *Sustainable Reuse of Brownfields* (EPA, Office of Solid Waste and Emergency Response, EPA 560-F-06-247, October 2006)
- *EPA Brownfields Program Benefits* (EPA, www.epa.gov/brownfields, updated as of March 2011)
- *Superfund Green Remediation Strategy* (EPA, Office of Solid Waste and Emergency Response, September 2010)
- *Draft Brownfield Cleanup Program Guide* (NYSDEC, May 2004)

Additionally, these comments recognize that the property that is the subject of this EE/CA has only been used for industrial/commercial purposes, is currently zoned as M-3 for manufacturing, industrial and commercial use, and will, according to the owner's stated plans, be redeveloped for such industrial/commercial use. In fact, the EE/CA recognizes that the current zoning of the Site is commercial/industrial and further, that the zoning is not expected to change in the future. Moreover, the owner has stated its willingness to apply institutional controls at the property to support that redevelopment plan consistent with the need to protect public health and the environment while making the most efficient use of the property and other resources.

2. Summary of EE/CA Findings

2.1 Investigation Results

In developing the comments that follow this section, the EE/CA reported site characterization results were considered. As discussed in the EE/CA, the Site is the historic location of the former Jewett White Lead Company facility, which ceased operations in the early to mid-1900s and includes a 1.07-acre parcel of land at 2000-2012 Richmond Terrace.

The investigation results are summarized as follows:

- Elevated levels of lead are present throughout Site soil at 2000 to 2012 Richmond Terrace. Elevated lead levels were generally observed at depths of 4 to 5-feet below ground surface.
- EPA collected off-site soil samples in the surrounding community, including in residential backyards. Elevated lead levels were observed in the surface soils. However, based on attribution analysis, the EPA concluded that the Jewett White Lead Site is not a significant contribution source to the lead found in the community. The lead in the community appears to be consistent with urban lead contamination typically seen in the industrialized Northeast United States (EPA, pg 1-6).
- Elevated lead levels were not observed in ground water. Lead was not detected in any of the groundwater samples collected, with a detection limit of 8 micrograms/liter (ug/l), which is lower than both its EPA Maximum Contaminant Limit (MCL) (15 ug/l) and NYSDEC groundwater quality standard (50 ug/l). The absence of detectable lead in groundwater confirms that the conditions beneath the Site are not conducive to the leaching of lead to groundwater beneath the Site. Additionally, there are no identified drinking water supplies located in the vicinity of the Site. (Weston, pg 3-6).
- Sediment/surface water samples were collected from storm sewers and their outfalls adjacent to the Site, as well as the Kill Van Kull downstream of the Site. Samples were analyzed for target analyte metals (TAL) including lead. The sediment results for lead did not exceed the site-specific screening level. Based on the analytical results it was concluded that the stormwater drainage systems are sources of potential impacts to sediment of the Kill Van Kull. It was also concluded that the source of sediment contaminants is not related to a release from the Site. The study found that urban runoff from non-point sources is the likely source of sediment impacts and that this finding is

consistent with the Conceptual Site Model (CSM) developed for the Site (Weston, pg 3-7).

- Lead was not detected in surface water samples collected from Bodine Creek and Kill Van Kull. Based upon the investigation, EPA concludes that there are no impacts to surface water due to releases from the Site which is again consistent with the CSM developed for the Site (Weston, pg 3-7).

2.2 Identified Removal Action Alternatives

In developing the comments that follow this section, the identification and evaluation of alternatives contained in the EE/CA were considered. The EE/CA identifies five (5) removal action alternatives as potential actions to achieve the primary stated objectives of: (a) eliminating unacceptable risks to human and ecological receptors; (b) preventing or minimize the migration of hazardous constituents to area soils, sediment, surface water and groundwater, and (c) restoring the property to its current use. The five alternatives identified by EPA include:

1. No Action
2. Excavation of up to 4 feet and Off-Site Treatment/Disposal
3. Excavation of up to 2 feet and Capping
4. Paving (excavation of 6 inches plus pavement)
5. Immobilization

Alternatives 2-5 were found by EPA to be effective, and implementable. Additionally, EPA assessed the costs of the alternatives. Of those four effective and implementable alternatives, Alternative 2 is the most expensive, followed by Alternatives 3, 4 and then 5 being the least expensive. The EPA proposes Alternative 2-Excavation and Off-Site Treatment/Disposal, as the removal action alternative for the 2000-2012 Richmond terrace portion of the Jewett White Lead Site.

3. Comments

Comment 1: An institutional control is available for this Site and a containment option coupled with an institutional control, like Alternative 4, is an appropriate remedy for this Site.

It appears that one of the main reasons EPA selected and proposed Alternative 2 (excavation remedy) as opposed to the other remedies it found would be protective of human health and the environment, including Alternative 4 (capping/institutional control remedy), was EPA's assumption that the current property owner would not agree to an institutional control for the Site. However, the property owner previously indicated to NL and to EPA, that it is willing to agree to a reasonable institutional control, as long as it does not impact the owner's planned use of the property as a mixed industrial/commercial use site. NL recently has confirmed that the property owner still would accept institutional controls under the same conditions. It is NL's understanding that the current owner of the Site owns a construction company and plans to develop the Site for use as an office building and to store trucks and other heavy equipment. In other words, the property owner plans to use the Site consistent with its current mixed industrial/commercial

zoning. A containment and institutional control option, like Alternative 4, is entirely consistent with this development plan, which is likely to consist of the construction of buildings, building concrete pads and parking lots. In fact, the property owner's development plans would help expedite implementation of Alternative 4, and thus result in the Alternative 4 remedy being implemented much more quickly than Alternative 2. These structures coupled with a removal action like Alternative 4 and an institutional control will contain impacted soils left in-place while preventing potential exposures to persons and the environment. Since an institutional control is available, Alternative 4 is an appropriate and effective remedy for the Site, and concerns over the institutional control are no longer a basis for rejection of this Alternative or selection of a more stringent remedy.

Comment 2: Alternative 4 is consistent with EPA and NYSDEC Brownfields policies and guidelines, which are intended to put impaired properties back to productive use.

As described in EPA's support of the Brownfields Revitalization Act in its *Sustainable Reuse of Brownfields* and *Brownfields Program Benefits* documents and the *Draft Brownfield Cleanup Program Guide* (NYSDEC, May 2004), EPA and New York State have established Brownfield Cleanup Programs (BCP) to address the environmental, legal, and financial barriers that often hinder the redevelopment and reuse of contaminated properties. The intent of these programs is to "encourage persons to voluntarily remediate brownfield sites for reuse and redevelopment." The goal of the BCP is to "remediate the site to a level that is protective of public health and the environment; taking into account the current, intended, and reasonably anticipated future uses of the site."

The Site is a prime candidate for Brownfields redevelopment, especially because the current owner wishes to develop the Site as an office and heavy equipment storage facility. Current zoning M-3 (industrial/commercial) is consistent with this purpose. A containment option, like Alternative 4, is entirely consistent with this development plan, which is likely to consist of the construction of buildings, building concrete pads and parking lots that will contain impacted soils while cutting off potential exposures to persons and the environment. Under its Brownfields programs and policies EPA has promoted such efforts to combine environmental cleanup and property development at hundreds of sites across the country. However, EPA did not consider or discuss its Brownfields policies in selecting a remedy for this Site. In fact, because of its cost, the remedy proposed by EPA (Alternative 2) likely would hinder redevelopment, contrary to the intent of the Brownfields policy. NL suggests that because an institutional control is available for this Site and the property owner has current development plans consistent with industrial/commercial use, EPA should reconsider application of the Brownfields policy to the Site in the selection of a remedy like Alternative 4.

Comment 3: Alternative 4 meets the threshold criteria, including compliance with ARARs.

The EE/CA provides contradictory language when evaluating Alternatives 3, 4 and 5 in relation to compliance with ARARs. For example, in Section 4.3 *Evaluation of Alternatives* the same statement is made for Alternatives 2, 3, 4 and 5: *All applicable ARARs will be addressed*. In Table 5-1 it again is indicated that all applicable ARARs will be addressed for Alternatives 2, 3, 4 and 5, and in Attachment 3, Section 4.7 *Comparative Analysis of Alternatives*, it is stated that Alternatives 2, 3, 4 and 5 comply with ARARs. However, Section 5.2 *Comparative Analysis of Alternatives*, the EE/CA concludes, without any asserted basis, that Alternative 2 complies with ARARs; whereas Alternatives 3, 4 and 5 do not, although it is noted that the threat of exposure will be greatly reduced. The first two statements are correct, and the statement in Section 5.2 appears to be an error.

Alternatives 3 and 4 are capping/cover remedies that have been determined by EPA to be protective of human health and the environment (see EE/CA sections 4.3, 5.2 and Table 5-1). Capping/cover remedies, especially when there is no impact to groundwater, are consistent with federal and New York State guidance including *Superfund Lead-Contaminated Residential Sites Handbook* (OSWER 9285.7-50, August 2003), *Presumptive Remedy for Metals-in-Soil Sites* (EPA 540-F-98-054, September 1999), and *DER-10 Technical Guidance for Site Investigation and Remediation* (NYSDEC, May 2010). Since the EE/CA has determined that the capping/cover remedies are protective of human health and the environment, and such remedies are consistent with federal and state guidance, the capping/cover remedies comply with ARARs. This conclusion is consistent with the EE/CA statements at Section 4.3, Table 5.1 and Attachment 3, Section 4.7.

Comment 4: *EPA's proposed remedy, Alternative 2, greatly exceeds the work required by EPA's own guidance to protect humans and the environment at a residential property, even though the Site is an industrial/commercial site, and thus the basis for selecting Alternative 2 is not supported by the site specific conditions or the comparative analysis of alternatives provided in the EE/CA.*

a. *Alternative 2 is not supported by site-specific conditions or current and foreseeable site use and is therefore not more effective.*

The EE/CA concludes that alternatives 2-5 all are effective and will provide overall protection of human health and the environment. Further, each of these alternatives is implementable with conventional technologies and addresses the applicable or relevant and appropriate requirements (ARARs). The only basis EPA provides for selecting Alternative 2 is that Alternative 2 is a "permanent" solution and provides a "proportionately higher level of protection for human health and the environment." However, EPA provides no supporting documentation, data or evidence to support this asserted basis. In fact, as discussed in these comments, the EPA-proposed remedy requires work that far exceeds what EPA considers protective in a residential setting, even though this Site is an industrial/commercial site. These extra measures

required in Alternative 2 offer no proportional benefit when compared to Alternative 4.

Alternative 4 is a removal action that couples existing conditions with institutional and engineering controls, consistent with the industrial/commercial zoning at and planned use of the Site. It offers similar benefits in long-term effectiveness and permanence, and reduction in toxicity, mobility or volume through treatment. And in the case of short-term impacts and effectiveness, a removal action based on institutional and engineering controls under current conditions actually would have fewer short-term impacts and hence, be more effective. Moreover, Alternative 4 will minimize negative life-cycle impacts associated with the proposed remedy (e.g., greater amount of green house gas emissions associated with the excavation and importation of fill, off-site and on-site transportation and placement on-site), particularly when such actions would not improve the overall effectiveness of the remedy and is, in fact, much more consistent with EPA's *Superfund Green Remediation Strategy*.

Alternative 4 represents the remedy whose overall effectiveness is proportional to its cost given the environmental conditions and current and future Site use. In other words, Alternative 2 goes far beyond what is protective at a residential site and is far more expensive than Alternative 4, while providing little, if any additional protections to the public health and the environment. Hence, with respect to these criteria, the overall effectiveness of the proposed action, Alternative 2, **should not** be chosen over Alternative 4.

b. *Alternative 2 is inconsistent with the EPA Lead Handbook.*

Alternative 2 is inconsistent with the EPA's guidance document entitled "Superfund Lead-Contaminated Residential Sites Handbook" (August 2003)("Lead Handbook") because it is a remedy that goes far beyond what EPA has deemed protective at a residential property even though the Site is an industrial/commercial site with much less opportunity for exposure.

The Lead Handbook promotes a consistent process to assess and manage risks associated with lead-contaminated sites by providing a step-by-step procedure to characterize and remediate such sites. This document primarily was prepared for Superfund managers working on characterization and cleanup of lead-contaminated residential sites; however, as stated in the Introduction to the Lead Handbook the concepts presented in the Lead Handbook can be useful for commercial and industrial use properties.

Based on EPA's analysis of risk, the Lead Handbook indicates that 12 inches of clean soil is adequate to establish a barrier from lead-contaminated soil in a ***residential*** yard for the protection of human health. The cover can be placed as backfill upon excavation or on top of the lead-contaminated soil. The minimum cover thickness is established since the top 12 inches of soil in a yard is considered to be available for direct human contact. This cover of 12 inches is expected to prevent direct human contact and exposure to contaminated soil left in place at depth in the residential setting where families

with young children live and are physically present at the property on an every-day basis.

However, the Site is zoned for industrial/commercial use, and its foreseeable use is industrial/commercial, not residential. Thus, the more sensitive residential exposure scenarios do not exist. Implementation of Alternative 2 could possibly result in excavation and offsite disposal of up to 48 inches of soils across the Site, which greatly exceeds what is considered protective in the Lead Handbook, even for a residential site. In other words, Alternative 2 requires work for an industrial/commercial site that the EPA has determined is not necessary to protect human health at residential sites. On the other hand, implementation of Alternative 4 at the Site, which includes excavation of 6 inches of soil topped by asphalt, is consistent with the objectives of the Lead Handbook by providing effective barriers to exposure. In short, the Lead Handbook provides further evidence that the overall effectiveness of the proposed action - Alternative 2 - **is not** proportional to the effectiveness that can be achieved given the option of Alternative 4.

c. EPA has found that neither groundwater nor surface water are being impacted by the Site and thus impact to water is not a basis to support a more stringent remedy.

EPA data shows that elevated lead levels were not observed in groundwater. Lead was not detected in any of the groundwater samples collected, with a detection limit of 8 micrograms/liter (ug/l), which is lower than both its EPA Maximum Contaminant Limit (MCL) (15 ug/l) and NYSDEC groundwater quality standard (50 ug/l). The absence of detectable lead in groundwater confirms that the conditions beneath the Site are not conducive to the leaching of lead to groundwater beneath the Site, especially given EPA's presumption that Jewett White operations, which ceased decades ago, is a potential source of on-site lead. Additionally, there are no identified drinking water supplies located in the vicinity of the Site. (Weston, pg 3-6).

In addition, EPA collected sediment/surface water samples from storm sewers and the outfalls adjacent to the Site, as well as the Kill Van Kull downstream of the Site. Samples were analyzed for target analyte metals (TAL) including lead. The sediment results for lead did not exceed the site-specific screening level. Based on the analytical results EPA concluded that the stormwater drainage systems are sources of potential impacts to sediment of the Kill Van Kull. It was also concluded that the source of sediment contaminants is not related to a release from the Site. The study found that urban runoff from non-point sources is the likely source of sediment impacts and that this finding is consistent with the Conceptual Site Model (CSM) developed for the Site (Weston, pg 3-7).

This data and the conclusions show that groundwater, surface water and sediments **are not** drivers for a remedy at this site. Therefore they do not provide a basis for deviating from the presumed and standard remedy for this kind of site. Alternative 4 will provide effective protections and is just as effective as Alternative 2 in protecting water in, under and around the site.

- d. The potential cost of Alternative 2 is significantly underestimated. The cost of this option does not provide a proportionate benefit to health and the environment and is a waste of valuable (and scarce) financial resources.***

When evaluating the relative benefits of various removal actions that meet the threshold criteria, the balancing criteria are relied upon to make a selection. When balancing the trade-offs among removal actions, the National Contingency Plan (NCP) compares the costs and overall effectiveness.¹ Overall effectiveness includes long-term effectiveness and permanence, reduction in toxicity, mobility or volume through treatment, and short-term effectiveness. The relationship between overall effectiveness and cost is examined across all alternatives to identify those that provide effectiveness that are proportional to their cost.² In other words, an alternative that provides negligible additional protections, but costs significantly more than another alternative should not be selected.

EPA's comparative alternatives analysis fails to recognize or even consider the significant uncertainty associated with Alternative 2 that will almost certainly increase costs and timeframes for implementation. Thus, the EE/CA does not properly compare Alternatives 2 and 4, as it underestimates the costs, schedule, and implementability of the proposed Alternative 2.

The cost associated with the proposed Alternative 2 is based on the minimum extent of contamination. The actual volumes requiring excavation under Alternative 2 likely will be greater, meaning the cost is likely to be significantly higher than assumed in the EE/CA. The EE/CA recognizes that the extent of lead impacts is generally not bounded horizontally and in certain locations not bounded vertically. The minimum volume estimated in the EE/CA for removal to meet the preliminary remediation goal of 800 mg/kg is 4,242 cubic yards. Furthermore the EE/CA states in *Attachment III* at page 3-5, "Thus, it may be concluded that the available data will form the basis for a minimum extent of contamination, and that the actual volume of soil requiring remediation will likely be greater." In other words, the EE/CA admits that it is understating the likely cost of Alternative 2.

For example, if the average excavation depth reaches 4 feet and the contamination extends across the Site, excavation volumes could increase to approximately 7,000 cy. This will have a significant impact on cost, schedule and implementability. Costs are estimated to increase from \$0.9MM to \$1.6 MM, a very plausible scenario given the lack of horizontal and vertical delineation. EPA's analysis of Alternative 2 also does not address the likelihood that shoring of excavations and dewatering of excavations will be

¹ 40 CFR Section 300.430 (f), Response to Comments, page 8725 (March 8, 1990)

² Ibid, page 8728

required, which could also result in significant cost and time schedule increases.

If soil excavation volumes associated with Alternative 2 increase as expected in the EE/CA, this also will increase the short-term impacts and implementation risks associated with the proposed action. For example, the number of truck trips required for removing the excavated soil will increase from a low end estimate based on the low end volume provided in the EE/CA of approximately 300 truck trips to an estimated 500 truck trips. Applying the same production rate assumed in the EE/CA, 500 truck trips converts to, at least, 20 truck trips per day for 25 days for excavation and another 20 trucks per day for the following 25 days for backfilling.

Alternative 4 does not have the significant uncertainties associated with implementation as with Alternative 2. Factoring in the uncertainty of Alternative 2 provides further evidence that the overall effectiveness of the proposed action **is not** proportional to the environmental benefit that can be achieved given the option of Alternative 4, and that alternative 4 is the appropriate choice under the required analysis.

Comment 5: The selection of Alternative 2 is not consistent with EPA's "Presumptive Remedy for Metals-in-Soil Sites" (September 1999)

Excavation, treatment and off-site disposal (Alternative 2) is not one of the three presumptive remedies identified in the *Presumptive Remedy for Metals-in-Soil Sites*. The three presumptive remedies include: Reclamation/Recovery (when feasible), Immobilization, and Containment. Reclamation/Recovery was not identified in the EE/CA as a potential action to be considered likely due to the fact the EPA determined it to be infeasible; whereas immobilization and containment were identified as potential actions to be considered.

The *Presumptive Remedy for Metals-in-Soils Sites* characterizes the Containment remedy as follows:

Containment of metals-in-soil-waste includes vertical or horizontal barriers. These remedial technologies can provide sustained isolation of contaminants and prevent mobilization of soluble compounds over long periods of time. They also reduce surface water infiltration, control odor and gas emissions, provide a stable surface over wastes, limit direct contact, and improve aesthetics. Institutional controls generally are used in conjunction with containment to further limit the potential for unintended access to the waste materials.

EPA's proposed removal action – Alternative 2 *Excavation and Off-Site Treatment/Disposal* for the commercial/industrial Jewett White Lead Site is not consistent with the *Presumptive Remedies for Metals-in-Soils Sites*. The EE/CA has determined that the Site contaminated soils are not a significant contribution source to the lead found in the off-site soils and sediments. Additionally, groundwater has not been impacted by Site soils. These site specific conditions confirm that the lead in the site soil is not very mobile.

Furthermore, the EE/CA has determined that the contaminated soil can be reliably contained by Alternative 4. Therefore, implementation of Alternative 4 at the Site is consistent with EPA's guidance providing further support that the overall effectiveness of the proposed action - Alternative 2 - **is not** proportional to the effectiveness that can be achieved given the option of Alternative 4.

Comment 6: *Alternative 4 is more appropriate than Alternatives 3 or 5.*

Similar to the analysis provided above concerning Alternative 2, Alternative 3 likewise exceeds the removal action objectives, is not consistent with the Lead Handbook or the EPA presumptive remedy for lead, and will generate costs such that the overall effectiveness is not proportional to the effectiveness that can be achieved given the option of Alternative 4. Alternative 3 requires excavation of 24 inches of soil (twice as much as required for a residential property under the Lead Handbook) and a multilayer cap. Such a multilayer cap is not appropriate because there is no current impact to groundwater. The paving cap in Alternative 4 provides an effective barrier to possible infiltration of lead to water.

Even though Alternative 5 is the least expensive option, this Alternative may have less long-term effectiveness compared to Alternative 4. It is uncertain if the integrity of the soil cement mixture can be maintained during freeze - thaw cycles and the day-to-day activities associated with the existing and planned future use of the site. For this reason NL suggests Alternative 4 has greater effectiveness.

Comment 7: *Semi-annual ground water monitoring for a period of 30 years to verify the success of the removal action is not warranted based on site specific information and should not be required as an element of any removal action option.*

Alternatives 3-5 include semi-annual ground water monitoring for a period of 30 years to verify the success of the removal action. Neither Weston's Conceptual Site Model (CSM) nor the data collected at the site to confirm the CSM support the need to include such extensive monitoring, especially when there is no current impact to groundwater. Alternatives 3-5 all include removal of lead and/or exposure barriers that would not only contain the lead but will prevent rainfall to cause infiltration of lead to groundwater. In addition, the institutional control for the property would prohibit potable (i.e., drinking water) uses of the groundwater.

Comment 8: *EPA misstates NL's participation in the EPA process.*

The EPA has stated that NL has refused to cooperate with the EPA in developing a remedy for the site. That is not the case. NL has had several discussions with the EPA and the property owner regarding potential remedies for the Site. Further, NL consistently has informed the EPA that NL is willing to discuss performing an appropriate remedy at the site that could be accomplished on a short time table.